

असाधारण EXTRAORDINARY

ध्यम I[—खण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY



सं० 33]

मई दिल्ली, शुक्तार, फ्रांस 4, 1995/श्राचण 13, 1917

No. 33] NEW DELHI, FRIDAY, AUGUST 4, 1995/SRAVANA 13, 1917

इस भाग में मित्र पृष्ठ संख्या थी जाली है जिससे कि यह अलग संकलन के रूप में रखा जासके \
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 4th August, 1995:

1

BILL No. XXV of 1995

A Bill further to amend the Passports Act, 1967.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Passports (Amendment) Act, 1995.
- (2) It shall come into force at once,

2. In section 5 of the Passports Act, 1967, after sub-section (2), the following sub-section shall be added, namely:—

"(2A) Every application for the issue of a passport shall be considered and finally decided and, subject to the other provisions of this Act, the passport authority shall issue or refuse to issue an ordinary passport within a period of thirty days from the date of receipt of such application and the applicant shall be informed accordingly:

Provided that where an application for the issue of an ordinary passport is made on the ground of an emergent visit to a foreign country or countries, the passport authority, if satisfied, shall issue or refuse to issue the passport within a period of ten days from the date of receipt of such an application."

Shor; title, und commencement.

Amendment of section 5 of Act 15 of 1967.

STATEMENT OF OBJECTS AND REASONS

Considerable delay in the issue of passports has become order of the day. The delay in the issue of passports causes harassment and unnecessary inconvenience to the applicants.

It is, therefore, essential to amend the Passport Act, 1967 so that the applications could know the fate of their applications for passport within a 'reasonable time.

Hence this Bill.

SATYA PRAKASH MALAVIYA

II

BILL No. XXVI of 1995

A Bill to provide for the constitution of a States Reorganisation Commission for recommending reorganisation of the States of India which is a Union of States.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

- 1. (1) This Act may be called the States Reorganisation Commission Act, 1995.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
 - 2. In this Act, unless the context otherwise requires,-
 - (a) "Commission" means the States Reorganisation Commission constituted under section 3;
 - (b) "prescribed" means prescribed by rules made under this Act;
 - (c) "State" includes Union territory.
- 3. (1) The Central Government shall from time to time constitute a State Reorganisation Commission consisting of a Chairperson and two other members to consider and report on the reorganisation of the States of India.
- (2) The conditions of service of the Chairperson and other members of the Commission shall be such as may be prescribed.

Short title and commencement.

Definitions.

Constitution of States Reorganisation Commission.

(3) The Commission shall appoint such officers and staff, as may be prescribed, to assist it in the discharge of its functions.

Report of the Commission.

4. The Commission shall, within a period of one year of its constitution submit its recommendations contained in a report to the President of India, who shall cause the same to be laid before each House of Parliament within two months of its receipt.

Central Government to initiate legislation on the basis of report of the Commission.

tO

rules.

5. The Central Government shall, with such modification and alteration in the report of the Commission, as it may deem fit, bring forward a proposal for legislation for implementing the recommendations of the Commission.

Power 6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. make

STATEMENT OF OBJECTS AND REASONS

Small States are manageable and have greater chances of prosperity and development. There have been demands from various parts of the country by the people for creation of smaller States. These demands are made from time to time and with a considerable lapse of time and growing needs of the people, such demands have almost become a continuing process. The demands for creation of separate and smaller States need to be considered sincerely. It is therefore imperative that an enactment should be brought on the statute book for constitution of a Commission from time to time to give its findings for reorganisation of States.

Hence this Bill.

SATYA PRAKASH MALAVIYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall constitute a States Reorganisation Commission consisting of a Chairperson and four other members to consider and report on the reorganisation of the States of India. It further provides that the Commission shall appoint such officers and staff, as may be prescribed, to assect it in the discharge of its functions. Since the salaries and allowances to be paid to the members of the Commission and to the officers and staff appointed to assist the Commission in the discharge of its functions are to be prescribed by the rules to be made under the Act, it is not possible to give the exact amount of expenditure that will be incurred in case the provisions of the Bill are brought into force.

However, it is estimated that a recurring expenditure to the tune of rupees ten lakhs is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

Ш

Bill No. XXXV of 1995

A Bill to provide for the prevention of disruption of health services in the hospitals, dispensaries and other health centres by the serving doctors, nurses, technicians and employees by resorting to strikes, dharnas, gheraos, taking leave en masse and through such other tactics and also for the constitution of a statutory tripartite Committee consisting of the members of the unions or associations, management and representatives of the appropriate Government for the timely redressal of the grievances and legitimate demands of the doctors, nurses, technicians and other employees of such hospitals, dispensaries and other health centres and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Maintenance of Uninterrupted Health Services Act, 1995.
 - (2) It extends to the Union Territories only.
 - (3) It shall come into force at once.
 - 2. In this Act, unless the context otherwise requires,—
 - (a) "appropriate Government" in relation to the Union Territories having Legislative Assemblies means the Union Territory Admin-

Short title, extent and commencement.
Definitions.

istration of those Union Territories and in other cases means the Central Government;

- (b) "health employees" include the serving doctors, nurses, technicians and other employees of a hospital, dispensary and a health centre meant for treating and serving the patients by whatever name called.
- (c) "health serv ce" includes any service in or in connection with the working of a hospital, dispensary and a health centre by whatever name called;
 - (d) "prescribed" means prescribed by rules made under this Act;
- (e) "strike" means the cessation of work by a body of health employees acting in combination or a concerted refusal or a refusal under a common understanding of such employees to continue to work or to accept work assigned and includes refusal to work overtime or any other conduct which is likely to result in cessation or substantial retardation of work in any health service;
- (f) "tripartite Committee" means the Committee appointed under section 7;

Prohibition of disruption of and strikes in health services.

Penalty for

health employees

partici-

pating in

- 3. (1) The appropriate Government may, if it is satisfied that in the interest of ailing public it is necessary or expedient so to do, by general or special order, prohibit the disruption of health services by resorting to dharnas, gheraos, taking leave en masse and such other tactics and prohibit strikes in health services specified in the order.
- (2) An order made under sub-section (1) shall be published in such manner as the appropriate Government may deem proper to bring it to the notice of the concerned health employees and such order shall remain in force for six months
 - (3) On issue of an order under sub-section (1)—
 - (a) no health employee shall go or remain on strike or sit on dharna, resort to gherao, take leave en masse etc;
 - (b) any strike by health employees declared or commenced either before or after the issue of an order shall be illegal.

4. Any health employee—

- (a) who commences a strike or initiates disruption of health services which is illegal under this Act or goes or remains on or otherwise takes part in any such disruption or strike; or
- (b) who instigates or incites other persons to commence or go or remain on or otherwise take part in any such strike or disruption shall be liable to disciplinary action including dismisal from service and shall also be punishable with imprisonment for a term which may extend to six months or with fine or with both.

5. Any person who knowingly spends money or extends financial assistance in furtherance or support of strike or disruption of health services which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to fifty thousand rupees or with both.

Penalty for giving financial assistance to illegal ctrikes

2 of 1974

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any Police Officer may arrest, without warrant, any person who is suspected of having committed any offence under this Act.

Power to arrest without warrant.

7. (1) The appropriate Government may, by notification in the Official Gazette, constitute such number of tripartite Committees as it may deem necessary for the timely settlement of disputes or demands of health employees relating to any matter and for performing such other functions as may be assigned to them under this Act.

Constitution of tripartite Committees,

- (2) Each tripartite Committee shall consist of such members representing the management, the appropriate Government and the unions or associations of the health employees, as may be prescribed.
- (3) The tripartite Committee shall follow such procedure, as may be prescribed.
- 8. (1) The settlement arrived at in the course of a deliberation of a tripartite Committee shall be final and binding on the management of such hospital, dispensary or a health centre by whatever name called in respect of whom the settlement was arrived at and no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members during any stage of the proceeding.

Finality
of settlement of
Committripartite
tees,

- (2) Every settlement shall come into operation on such date as is agreed upon by the tripartite Committee.
- 9. The provisions of this Act and of any order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Our country having a vast population can hardly provide better health services to all its citizens despite our best efforts. Millions of our citizens are afflicted with dangerous and fatal diseases which require immediate and constant medical care. Apart from these dangerous diseases there are road accidents, burn-cases, snake bites, stabbings, explosions, fires, industrial accidents etc. which require emergency health services. Maternity services also require emergency health services. Thus the health services are very essential in a country like ours where over-population, illiteracy, poverty and pollution has afflicted the health of almost everyone.

However, it has been observed that persons connected with the health services go on strike at the slightest provocation without bothering for the suffering patients. As a result many critical patients lose their lives and other have to undergo agony and miseries. Emergency services come to a standstill and victims of accidents lose their lives in such strikes. Sometimes individual altercation between two employees on trivial matter becomes a cause of strike which paralyses the entire health services. Hospitals in the national capital have earned notorioty in this regard. Hospital services are frequently paralysed in the capital on one pretext or the other.

There is no doubt that employees of hospitals and dispensaries remain under tremendous working pressure because of ever increasing patients and accident victims and due to lack of amenities and facilities. They require better living and serving conditions. They require security, housing, timely promotions etc. It is also true that they remain exposed to deadly diseases and sometimes they face the violent relatives or friends of patients, but strike or disruption of health services is not the answer to such problems. Every effort should be made to solve the problems of health employees within the available means and for this tripartite Committees should be constituted and settlements arrived at the Committee should be final and binding.

At the same time for maintaining uninterrupted health services—all sorts of strikes, dharnas gheraos, taking leave en masse etc. must be banned and dealt with sternly in the larger interest of the ailing public.

Hence this Bill.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for the constitution of tripartite Committees to find solution to the grievances of the health employees whose decision or settlement arrived at therein shall be final. Such a settlement may result in expenditure from the Consolidated Fund of India but it is not possible at this stage to calculate the likely expenditure. Similarly some sorts of allowances and contingent expenditure will also be involved on these Committees. It is estimated that a sum of rupees ten labbe may involve as recurring expenditure per annum.

No non recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL NO. XLIII OF 1995

A Bill to prohibit the manufacture, distribution and sale of spurious electrical and other consumer goods and to provide for deterrent punishment for manufacture, distribution and sale of such spurious goods and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

- 1. (1) This Act may be called the Spurious Electrical and other Consumer Goods (Protection of Manufacture, Distribution and Sale) Act, 1995.
 - (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

- 2). In this Act, unless the context otherwise requires,—
- (a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

63 of 1986.

(b) "Bureau" means the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986;

- (c) "Consumer items" include such items used by human beings or for animals and all items intended to be used by human beings, as may be specified from time to time by the appropriate Government by notification in the Official Gazette:
- (d) "Inspector" means an Inspector appointed by the appropriate Government under section 5;
- (e) "manufacture" includes any process or part of a process of making, altering, ornamenting, finishing, packing, labelling, breaking or otherwise treating or adopting any consumer item with a view to its sale or distribution;
 - (f) "prescribed" means prescribed by rules made under this Act;
- (g) "spurious consumer goods" means such consumer goods which is not genuine and is an imitation of or resembles another goods in a manner likely to deceive or bears upon it or upon its label or container, the name of another brand good or if the label or container bears the name of an individual or company purporting to be the manufacturer of the good which is fictitious or does not exist or if the good purports to be the product of a manufacturer of whose it is not truely a product.
- 3. From such date as may be specified by the appropriate Government by notification in the Official Gazette in this behalf, no person shall himself or through any other person on his behalf manufacture for sale or for distribution, or sell or stock or exhibit, or offer for sale or distribute any spurious consumer goods.

Prohibition of manufacture, sale and distribution of spurious consumer goods.

4. Notwithstanding anything contained in any other law for the time being in force, no person shall himself or through any other person on his behalf manufacture for sale or for distribution, or sell or stock or exhibit or offer for sale or distribute any electrical goods or appliance which does not bear ISI mark or any other quality mark prescribed by the Bureau for such electrical good or appliance.

Electrical goods and appliances to bear the quality murk of the Bureau.

5. (1) The appropriate Government may appoint such persons, as it may think fit, having the precribed qualifications, to be the Inspectors for such areas as may be assigned to them by such Government.

Appointment of Inspectors.

- (2) The powers and the duties of an Inspector shall be such as may be prescribed.
- (3) Every Inspector shall follow such procedure in discharge of his duties as may be prescribed.

Penalty.

- 6. (1) Whoever himself or through any other person on his behalf manufactures for sale or for distribution, or sells or stocks or exhibits or offers for sale any spurious consumer goods, shall be punishable with imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees.
- (2) Whoever himself or through any other person on his behalf manufactures for sale or for distribution, or sells or stocks or exhibits or offers for sale any electrical good or appliance which does not bear the quality mark prescribed by the Bureau for such goods or appliance shall be punishable with imprisonment for a term which may extend to ten years and also with fine which may extend to two lakh rupees.

Confiscation. 7. Where any person has been convicted under this Act, the stock of the spurious goods or electrical goods or appliance without the prescribed quality mark, as the case may be, in respect of which the contravention has been made, shall be liable to confiscation and any implements or machinery used in the manufacture, sale or distribution of such spurious goods and any receptacles, packages or coverings in which such goods are contained and the animals, vehicles, vessels or other conveyances used in carrying such spurious goods shall also be liable to confiscation.

Cognizability of offences 8. (1) Notwithstanding anything in the Code of Criminal Procedure, 1973, every offence under this Act, shall be cognizable and non-bailable.

2 of 1974.

(2) All offences under this Act shall be tried by the Court of a Metropolitan Magistrate or of a Judical Magistrate of the first class.

Application of other law not barred. 9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force and nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act.

Power 10 make rules, 10. The Central Government may, after consultation with or on the recommendation of the State Governments, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

These days unscrupulous manufacturers and traders have flooded the markets with spurious consumer items which are sold to the consumers as genuine and thereby fleecing the consumers and amassing the black money. They imitate the brand of established products in the market with inferior quality nobody can guess it to be fake or spurious in the first instance. Since these spurious products give very high rates of profits, the retailers are easily attracted towards their sale and the trade goes on. These spurious items are passed on to the consumers on very attractive terms and persons of middle class and poor families are easily lured by these spurious products. It is too late when the poor consumers realise that spurious item has been passed on to him. Some spurious consumable items have proved to be dangerous and fatal in many cases.

Similarly electrical goods and appliances which do not conform to 959 mark allotted by the Burcau of Indian Standards have captured the markets and are sold at cheaper rates which are generally purchased and used by the poor people and villagers. These sub-standard and spurious electrical goods become the cause of electrocutions and many electrical gadgets are damaged due to their use.

It is therefore, necessary to prohibit the manufacture, sale and distribution of fake and spurious consumer items and electrical goods without 959 or other standard mark prescribed by the Bureau of Indian Standards and provide for deterrent punishment for the offenders so that consumers are not cheated by these unscrupulous manufacturers and traders.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 5 of the Bill povides for the appointment of Inspectors for implementing the provisions of the Bill. The Bill, if enacted and bought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five lakes may be involved as recurring expenditure per annum.

A non recurring expenditure of rupees ten lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules in consultation with the State Governments for carrying out the purpose of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

V

BILL No. XLIV of 1995

A Bill further to amend the Drugs and Cosmetics Act, 1940.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Drugs and Cosmetics (Amendment) Act, 1995.

Short title.

23 of 1940

2. In section 10 of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act), after the second proviso the following proviso shall be added namely:—

Amendment of section 10.

"Provided also that established anti malaria drugs, particularly for treating cerebral malaria shall not be prohibited by such notification and the Government agencies or Governments of those States which are generally affected by cerebral and other malaria, medical practitioners an licensed druggists shall be at liberty to import such established anti malaria drugs to curtail the danger posed to persons by perebral malaria."

Insertion of new section 26B.

3. After section 26A of the principal Act the following section shall be inserted, namely:—

Powers of Central Government ţΟ collect the drugs from manufacturer or importers and distribute them to the poors at appropriate rate.

- "26B. (1) Notwithstanding anything contained in this Act of any other law for the time being in force every manufacturer or importer of drugs shall derosit such percentage of his annual production or import of such drugs which are beyond the purchasing capacity of commonmen, with the Central Government, as may be prescribed.
- (2) The Central Government shall fix the prices of drugs deposited under sub-section (1) and distribute them through Government agencies, cooperative stores etc. to cater to the needs of the persons living below the poverty line."

STATEMENT OF OBJECTS AND REASONS

Under the Drugs and Cosmetics Act, 1940 the Central Government can impose ban on import of drugs on certain grounds. In put suance of these powers Government have imposed ban on import of many drugs including drugs to combat Cerebral malaria which is eausing havoc in the country. In the recent past thousands of people died due to cerebral malaria which cannot be cured by conventional drugs but require specific drugs which are available abroad but due to ban on them they can not be imported to the Country. On the other hand in recent years cerebral malaria is increasing menacingly in Madhya Pradesh, Rajasthan, Gujarat, Maharashtra, Delhi, and other parts of the Country. Hence exemption has to be made in imposing blanket ban on drugs and the drugs to curtail cerebral malaria has to be allowed to be imported freely by amending the Act as suggested in the Bill.

Drugs or medicines are required by all, be they are rich, poor or people living below the poverty line, to get rid of diseases and pains. Many drugs are required for saving the lives. However, in recent years the prices of drugs have risen beyond the reach of Common men resulting in an increase of their sufferings. In our country where more than forty percent of the population lives below the poverty line, majority of them can not even think of purchasing costly drugs because they can not even manage two square meals for them and their families. Even for ordinary drugs they depend on Government hospitals and charitable institutions, what to say about costly and life-saving drugs. With the liberalisation and globalisation of economy, the drug prices are soaring high to new peaks. Liberlisation and globalisation is a welcome step in the right direction but our democracy is wedded to the ideals of a welfare State and our ultimate goal is the welfare of the people. Since the hapless poor people are dying for want of medicines and drugs it is the sacred onus of the State to make the drugs available to these poor people at reasonable rates which they can afford. For this purpose the Government, in larger public interest, may direct every manufacturer or importer of drugs to deposit some percentage of the drugs manufactured or imported by him and fix their retail price which the poor can afford and distribute them through Government agencies. Super Bazar. Kendriva Bhandar, recognised co-operatives etc. so that these essential drugs reach to the poor and down-trodden of the To ensure that these drugs are sold only to the poor, Govvernment can prescribe certain mandatory guidelines to be followed. To enable the Government to implement this welfare measure the amendment in the Drugs and Cosmetics Act, 1940 has been suggested in this Bill.

Honce this Pill.

MEMORANDUM REGARDING DELEGATION LEGISLATION

Clause 3 of the Bill seeks to insert new section 26B in the Act. Under this section the drugs and its percentage that may be deposited by the manufacturer or importer with the Central Government for the use of persons living below the poverty line shall be laid down in the rules.

The matters in respect of which the power is proposed to be delegated to the Central Government to make rules are matters of administrative details. The delegation of legislative power is, therefore, of normal character.

VI

BILL No. XXXVIII of 1995

A Bill further to amend the Indian Evidence Act, 1872 and the Code of Criminal Procedure 1973.

Whereas it is often embarrassing for women to appear in open Courts, especially in cases pertaining to marriage, divorce and various crimes against them particularly those involving sexual assault, teasing and molestation;

And Whereas it would be proper to provide for special procedure for examination of woman witnesses especially minor girls and victims of rape and other sex-related crimes and obscenity, with due regard to their modesty and dignity of women-hood;

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

- 1. This Act may be called the Criminal Law Amendment Act, 1995.
- 2. In section 118 of the Indian Evidence Act, 1872, the following Proviso shall be added, namely:—

"Provided that no woman shall be compelled to appear in person in any Court, especially in regard to cases of marriage, divorce, rape, kidnapping sexual assault and other allied crimes and wherever necessary shall be examined by way of appointment of a Commission

Short title.

Amendment of section 118 of Act 1 of 1872, duly authorised in the behalf, except when she herself is accused of henious crime like murder brideburning or abetment of suicide, kidnapping or rape."

Amendment of section 284 of Act 2 of 1974. 3. In section 284 of the Code of Criminal Procedure 1973, in subsection (1), after the first proviso, the following proviso shall be added, namely:—

"Provided further that where the examination of a victim of rape, especially minor victim, or other crimes against women and girls is necessary, a commission shall be appointed for the examination of such a witness, or else if considered necessary the Court shall arrange her examination in camera."

STATEMENT OF OBJECTS AND REASONS

Despite all assertions of equality of status for women including constitutional provisions guaranteeing equality to all citizens irrespective of sex, caste, creed or faith through varied laws and enactments providing, protecting and promoting the position, rights and interests of women, women continue to remain the weaker sex, exposed to exploitation in different circumstances and varied forms. Modesty remains an integral part of their nature, exposing them to exploitation and embarrassment. No wonder crime against women has increased and registered manifold increase, during the past one decade itself. Litigations involving women and girls including minor girls are swarming the Courts.

Need therefore arises to make provisions under the Indian Evidence Act and the Criminal Procedure Code to avoid harassment and embarrassment to women and girls in the course of litigations and prosecutions, to minimise the need for women and girls to appear in open Courts and protect them from uncalled for grilling and embarrassment in the witness box. Wherever it is possible to have them examined out of Court, e.g. through a Commission, of course at their request and cost, Courts should permit such examination through a Commission.

In case of women and girls, victims of crimes like, kidnapping, rapes, outrage of their modesty and other sexual and criminal exploitation, their examination should be made by Court in Camera with the help of women, women prosecutors, pleaders and advocates, to protect them against the psycological trauma they are likely to undergo if subjected to examination in open Court.

Hence this Bill.

VEENA VERMA

VII

BILL NO. XXXVII OF 1995

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows: —

Short title.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1995.

Amendment of Section 125. 2. In section 125 of the Code of Criminal Procedure, 1973, for subsection (1) the following sub-section shall be substituted, namely.—

Order for maintenance of wives, children and pas-

ent.

- "125. (1) If any person neglects, fails or refuses to maintain,—
 - (a) his wife, or
- (b) his legitimate or illegitimate child, whether married or not, who is unable to maintain itself, or
- (c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is by reason of any physical or mental abnormality or injury, is unable to maintain itself, or

(d) his father or mother unable to maintain himself or herself,

a Magistrate of the first class may order such person to make a monthly allowance for the maintenance of his wife, or such child, father or mother, at a monthly rate not being less than two thousand rupees per head or equivalent thereof as may be determined by the Magistrate with reference to the value of the tupee as per cost of living index with reference to price-structure prevalent in the base year 1994 and to pay the same to such person or persons as the Magistrate may from time to time direct:

Provided that the entire maintenance allowance as aforesaid taken together shall not exceed five thousand rupees or equivalent thereof computed in the said manner:

Provided further that the Magistrate may order the father of a minor child referred in clause (b) to make such allowance until it attains majority and in the case of a female child till she is married or becomes able to maintain herself, if however the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means, the Magistrate may order such allowance to be paid till she herself or her husband becomes able to maintain her.

Explanation.—For the purposes of this Chapter,—

- (a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is deemed not to have attained majority:
- (b) "wife" includes a woman who has been divorced by, or has obtained a divorce from her husband and has not remarried, and also includes a woman who has been deceitfully induced into wedlock or cohabitation under a belief of having been lawfully married to him and has not remarried."

9 of 1875.

STATEMENT OF OBJECTS AND REASONS

While Chapter IX was incorporated in the Code of Criminal Procedure to take care of destitution of women, children and the aged, experience has exposed its inadequacy. The inadequacy is two pronged, one with respect to the class of destitute persons to be covered and the other inadequacy relates to the insufficiency of the amount of maintenance allowance payable, in so far as the maximum ceiling of allowance of Rs. 500 per month altogether falls far short of the requirement of providing due and adequate protection to the victims of destitution, and to that extent have become rather irrelevant.

Section 125(1) is accordingly sought to be amended to include the categories of women who are deceptively induced into wedleck and co-habitation without legal marriage, besides married, deserted or divorced women. Provision is also sought to be made to provide due protection to a married daughter whose husband is unable to maintain her.

Secondly the provisions regarding extent of maintenance is sought to be up-dated by fixing an enhanced limit of Rs. 2000/- per month per head. The total maintenance of all victims of destitution attributable to neglect of an individual person, not exceeding Rs. 5000/- per month, taking 1994 as the base year, is sought to be linked with the value of the Rupee and cost of living index.

Hence this Bill.

VEENA VERMA

VIII

BILL No. XXXVI of 1995

A Bill to amend the Muslim Women (Protection of Rights on Divorce)

Act, 1986.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Muslim Women (Protection of Rights on Divorce) Amendment Act, 1995.

Short title and extent.

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- 2. In section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986,—

Amendment of section 3.

- (i) in sub-section (1),—
- (a) after clause (a) the following clause shall be inserted, namely:—
 - "(aa) Where she is unable to maintain herself after the iddat period, a reasonable and fair provision for maintenance

25 of 1986.

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to be made and paid to her every month by her former husband, which shall continue to be paid to her till her remarriage or death and in case of pre-deceased husband, such maintenance shall be payable from out of the properties of the deceased husband.";

- (b) in sub-section (b) for the words "for a period of two years from the respective dates of bath of such children", the words "for the period till such children attain majority and in the case of female children till such further time as they are married or become able to maintain themselves" shall be substituted;
- (ii) in sub-section (3), in clause (b) after the existing proviso the following proviso shall be added, namely:—

"Provided further that maintenance for the divorced woman and her children as referred to in clauses (aa) and (b) shall not be less than two thousand rupees and one thousand rupees per month respectively or equivalent thereof, as may be determined by the Magistrate with reference to the value of the rupee as per cost of living index with reference to pricesstructure prevalent in the base year 1995 which shall not altogether exceed five thousand rupees per month.

STATEMENT OF OBJECTS AND REASONS

The Muslim Women (Protection of Rights on Divorce) Act, 1986, left much to be desired even in the matter of providing protection against destitution to Muslim divorced women. The Act leaves the Muslim Women destituted just after the *iddat* period, even when she is unable to maintain herself. Is it not for Indian Society to see that no one is exposed to the vagaries of destitution, more so, divorced women?

While the Muslim personal law stops at providing protection to Muslim Women till the period of iddat and no further; What would happen to her when she is not capable rather unable to maintain herself after iddat if she decides not to remarry? As a matter of fact the present law leaves no option to a divorced married woman, except to go in for a marriage, even a hasty marriage, particularly when she is unable to maintain herself: and in case she prefers to remain unmarried she would be exposed to destitution.

This evidently presents a very grave scenario and has got to be remedied

There is no harm nor any violation of the Muslim Personal Law, nor injury to Muslim sentiments, if provision is made for maintenance—of destitute women, by taking recourse to common law, especially where the Muslim Law failed to provide protection, to a large section of the women folk in destitution. There should be no difficulty if provision is made to supplement the Muslim Law, by way of providing for maintenance—to divorced women, after the period of iddat, the stage upto which the Muslim law takes care of her. It would not in any way come into clash with the Personal Law if protection of common law of the land is extending to women who are victims of the incidence of divorce, such as by restoring to protection of Chapter IX of the Criminal—Procedure Code, 1973, for protecting them against exploitation. The vulnerability of the fair sex to exploitation, especially at such a delicate stage can well be imagined.

VEENA VERMA.

V. S. RAMA DEVI Secretary-General.

Published by the Secretary-General, Rajya Sabha under Rule 68 of the Rules of Procedure and Conduct of Business in the Rajya Sabha.